

## UNITED STATES DISTRICT COURT

## DISTRICT OF NEVADA

TERRANCE WILLIAMS,

v.

NNCC,

Plaintiff,

Defendant.

Case No. 3:22-cv-00382-ART-CSD

ORDER

Pro se Plaintiff Terrance Williams, an inmate in the custody of the Nevada Department of Corrections, initiated this action by submitting a document titled Temporary Injunction. (ECF No. 1-1). He did not submit a complaint, and he neither paid the \$402 filing fee nor submitted an application to proceed *in forma pauperis* ("IFP application"). On August 30, 2022, this Court gave Plaintiff until October 31, 2022, to (i) submit a complaint, and (ii) file a fully complete IFP application or pay the \$402 filing fee. (ECF No. 3). Plaintiff was warned the action could be dismissed if he failed to comply with these directives. (*Id.* at 2). The October 31, 2022 deadline expired, and Plaintiff did not file a complaint, submit a fully complete IFP application, or pay the full \$402 filing fee.

**I. DISCUSSION**

District courts have the inherent power to control their dockets, and "[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party's failure to obey a court order or comply with local rules. See *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987)

1 (dismissal for failure to comply with court order). In determining whether to  
2 dismiss an action on one of these grounds, the Court must consider: (1) the  
3 public's interest in expeditious resolution of litigation; (2) the Court's need to  
4 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy  
5 favoring disposition of cases on their merits; and (5) the availability of less drastic  
6 alternatives. See *In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217,  
7 1226 (9th Cir. 2006) (quoting *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th  
8 Cir. 1987)).

9 The first two factors, the public's interest in expeditiously resolving this  
10 litigation and the Court's interest in managing its docket, weigh in favor of  
11 dismissal of Plaintiff's claims. The third factor, risk of prejudice to defendants,  
12 also weighs in favor of dismissal because a presumption of injury arises from the  
13 occurrence of unreasonable delay in filing a pleading ordered by the court or  
14 prosecuting an action. See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir.  
15 1976). The fourth factor—the public policy favoring disposition of cases on their  
16 merits—is greatly outweighed by the factors favoring dismissal.

17 The fifth factor requires the Court to consider whether less drastic  
18 alternatives can be used to correct the party's failure that brought about the  
19 Court's need to consider dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983,  
20 992 (9th Cir. 1999) (explaining that considering less drastic alternatives *before*  
21 the party has disobeyed a court order does not satisfy this factor); accord  
22 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that  
23 “the persuasive force of” earlier Ninth Circuit cases that “implicitly accepted  
24 pursuit of less drastic alternatives prior to disobedience of the court’s order as  
25 satisfying this element[,]” i.e., like the “initial granting of leave to amend coupled  
26 with the warning of dismissal for failure to comply[,]” have been “eroded” by  
27 *Yourish*). Courts “need not exhaust every sanction short of dismissal before finally  
28 dismissing a case, but must explore possible and meaningful alternatives.”

1       *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986). Because this action  
2 cannot proceed until and unless Plaintiff submits a complaint and either files a  
3 fully complete IFP application or pays the filing fee, the only alternative is to enter  
4 a second order setting another deadline. But the reality of repeating an ignored  
5 order is that it often only delays the inevitable and squanders the Court's finite  
6 resources. The circumstances here do not indicate that this case will be an  
7 exception: there is no hint that Plaintiff needs additional time or evidence that he  
8 did not receive the Court's order. Setting another deadline is not a meaningful  
9 alternative given these circumstances. So the fifth factor favors dismissal.

10      **II. CONCLUSION**

11       Having thoroughly considered these dismissal factors, the Court finds that  
12 they weigh in favor of dismissal. It is therefore ordered that this action is  
13 dismissed without prejudice based on Plaintiff's failure to submit a complaint and  
14 either file a fully complete IFP application or pay the full \$402 filing fee in  
15 compliance with this Court's August 30, 2022 order. The Clerk of Court is  
16 directed to enter judgment accordingly and close this case. No other documents  
17 may be filed in this now-closed case. If Plaintiff wishes to pursue his claims, he  
18 must file a complaint in a new case.

19       DATED THIS 18<sup>th</sup> day of January 2023.

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ANNE R. TRAUM  
UNITED STATES DISTRICT JUDGE